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Secretary for Marketing and Regulatory Programs, to be exercised only during the absence or unavailability of the Under Secretary: Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Under Secretary for Marketing and Regulatory Programs.

[68 FR 27446, May 20, 2003]

§ 2.79 Administrator, Agricultural Marketing Service.

(a) *Delegations.* Pursuant to § 2.22(a)(1), (a)(5) and (a)(8), subject to reservations in § 2.22(b)(1), the following delegations of authority are made by the Assistant Secretary for Marketing and Regulatory Programs to the Administrator, Agricultural Marketing Service:

(1) Exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627), including payments to State departments of agriculture in connection with cooperative marketing service projects under section 204(b) (7 U.S.C. 1623(b)), but excepting matters otherwise assigned.

(2) Conduct marketing efficiency research and development activities directly applicable to the conduct of the Wholesale Market Development Program, specifically:

(i) Studies of facilities and methods used in physical distribution of food and other farm products;

(ii) Studies designed to improve handling of all agricultural products as they are moved from farms to consumers; and

(iii) application of presently available scientific knowledge to the solution of practical problems encountered in the marketing of agricultural products (7 U.S.C. 1621–1627).

(3) Exercise the functions of the Secretary of Agriculture relating to the transportation activities contained in section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j)) as amended, but excepting matters otherwise assigned.

(4) Administer transportation activities under section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291).

(5) Apply results of economic research and operations analysis to

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evaluate transportation issues and to recommend revisions of current procedures.

(6) Serve as the focal point for all Department transportation matters including development of policies and strategies.

(7) Cooperate with other Departmental agencies in the development and recommendation of policies and programs for inland transportation of USDA and CCC-owned commodities in connection with USDA programs.

(8) Exercise the functions of the Secretary of Agriculture contained in the following legislation:

(i) U.S. Cotton Standards Act (7 U.S.C. 51–65);

(ii) Cotton futures provisions of the Internal Revenue Code of 1954 (26 U.S.C. 4854, 4862–4865, 4876, and 7263);

(iii) Cotton Statistics and Estimates Act, as amended (7 U.S.C. 471–476), except as otherwise assigned;

(iv) [Reserved]

(v) Naval Stores Act (7 U.S.C. 91–99);

(vi) Tobacco Inspection Act (7 U.S.C. 511–511q);

(vii) Wool Standards Act (7 U.S.C. 415–415d);

(viii) Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601, 602, 608a–608e, 610, 612, 614, 624, 671–674);

(ix) Cotton Research and Promotion Act (7 U.S.C. 2101–2118), except as specified in § 2.43(a)(24);

(x) Export Apple and Pear Act (7 U.S.C. 581–590);

(xi) Export Grape and Plum Act (7 U.S.C. 591–599);

(xii) Titles I, II, IV, and V of the Federal Seed Act, as amended (7 U.S.C. 1551–1575, 1591–1611);

(xiii) Perishable Agricultural Commodities Act (7 U.S.C. 499a–499s);

(xiv) Produce Agency Act (7 U.S.C. 491–497);

(xv) Tobacco Seed and Plant Exportation Act (7 U.S.C. 516–517);

(xvi) [Reserved]

(xvii) Tobacco Statistics Act (7 U.S.C. 501–508);

(xviii)–(xxi) [Reserved]

(xxii) Section 401(a) of the Organic Act of 1944 (7 U.S.C. 415e);

(xxiii) Agricultural Fair Practices Act (7 U.S.C. 2301–2306);

(xxiv) Wheat Research and Promotion Act (7 U.S.C. 1292 note), except as specified in §2.43(a)(24);

(xxv) Plant Variety Protection Act (7 U.S.C. 2321–2331, 2351–2357, 2371–2372, 2401–2404, 2421–2427, 2441–2443, 2461–2463, 2481–2486, 2501–2504, 2531–2532, 2541–2545, 2561–2569, 2581–2583), except as delegated to the Judicial Officer;

(xxvi) Subtitle B of title I and section 301(4) of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 4501–4513, 4514(4)), except as specified in §2.43(a)(24);

(xxvii) Potato Research and Promotion Act (7 U.S.C. 2611–2627), except as specified in §2.43(a)(24);

(xxviii)–(xxx) [Reserved]

(xxxi) Egg Research and Consumer Information Act (7 U.S.C. 2701–2718), except as delegated in §2.43(a)(24);

(xxxii) Beef Research and Information Act, as amended, (7 U.S.C. 2901–2918), except as delegated in §§2.42(a)(29) and 2.43(a)(24);

(xxxiii) Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401–3417), except as delegated in §2.43(a)(24);

(xxxiv) Egg Products Inspection Act relating to the shell egg surveillance program, voluntary laboratory analyses of egg products, and the voluntary egg grading program (21 U.S.C. 1031–1056);

(xxxv) Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), as supplemented by the Act of June 28, 1937 (15 U.S.C. 713c), and related legislation, except functions which are otherwise assigned relating to the domestic distribution and donation of agricultural commodities and products thereof following the procurement thereof;

(xxxvi) Procurement of agricultural commodities and other foods under section 6 of the National School Lunch Act of 1946, as amended (42 U.S.C. 1755);

(xxxvii) In carrying out the procurement functions in paragraphs (a)(8)(xxxv) and (xxxvi) of this section, the Administrator, Agricultural Marketing Service shall, to the extent practicable, use the commodity procurement, handling, payment and related services of the Farm Service Agency;

(xxxviii) Act of May 23, 1908, regarding inspection of dairy products for export (21 U.S.C. 693);

(xxxix) The Pork Promotion, Research, and Consumer Information Act of 1985 (7 U.S.C. 4801–4819), except as specified in §2.43(a)(24);

(xl) The Watermelon Research and Consumer Information Act (7 U.S.C. 4901–4616), except as specified in §2.43(a)(24);

(xli) The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601–4612), except as specified in §2.43(a)(24);

(xlii) Subtitles B and C of the Dairy Production Stabilization Act of 1983, as amended (7 U.S.C. 4501–4513, 4531–4538);

(xlili) The Floral Research and Consumer Information Act (7 U.S.C. 4301–4319), except as specified in §2.43(a)(24);

(xliv) Section 213 of the Tobacco Adjustment Act of 1983, as amended (7 U.S.C. 511r);

(xlv) National Laboratory Accreditation Program (7 U.S.C. 138–138i) with respect to laboratories accredited for pesticide residue analysis in fruits and vegetables and other agricultural commodities, except those laboratories analyzing only meat and poultry products;

(xlvi) Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001–6013), except as specified in §2.43(a)(24);

(xlvii) Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101–6112), except as specified in §2.43(a)(24);

(xlviii) Lime Research, Promotion, and Consumer Information Act of 1990 (7 U.S.C. 6201–6212), except as specified in §2.43(a)(24);

(xlix) Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6301–6311), except as specified in §2.43(a)(24);

(l) Fluid Milk Promotion Act of 1990 (7 U.S.C. 6401–6417), except as specified in §2.43(a)(24);

(li) Producer Research and Promotion Board Accountability (104 Stat. 3927);

(lii) Consistency with International Obligations of the United States (7 U.S.C. 2278);

(liii) Organic Foods Production Act of 1990 (7 U.S.C. 6501–6522) provided that

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the Administrator, Agricultural Marketing Service, will enter into agreements, as necessary, with the Administrator, Food Safety and Inspection Service, to provide inspection services;

(liv) Pesticide Recordkeeping (7 U.S.C. 136i-1) with the provision that the Administrator, Agricultural Marketing Service, will enter into agreements, as necessary, with other Federal agencies;

(lv) The International Carriage of Perishable Foodstuffs Act (7 U.S.C. 4401-4406);

(lvi) The Sheep Promotion, Research, and Information Act (7 U.S.C. 7101-7111), except as specified in §2.43(a)(24); and

(lvii) The Fresh Cut Flowers and Fresh Cut Greens Promotion and Consumer Information Act (7 U.S.C. 6801-6814), except as specified in §2.43(a)(24).

(lviii) Commodity Promotion and Evaluation (7 U.S.C. 7401);

(lix) Commodity Promotion, Research, and Information Act of 1996 (7 U.S.C. 7411-7425), except as specified in §2.43(a)(24);

(lx) The Canola and Rapeseed Research, Promotion, and Consumer Information Act (7 U.S.C. 7441-7452), except as specified in §2.43(a)(24);

(lxi) The National Kiwifruit Research, Promotion, and Consumer Information Act (7 U.S.C. 7461-7473), except as specified in §2.43(a)(24); and

(lxii) The Popcorn Promotion, Research, and Consumer Information Act (7 U.S.C. 7481-7491), except as specified in §2.43(a)(24).

(lxiii) Farmers' Market Promotion Program (7 U.S.C. 2005).

(lxiv) National Organic Certification Cost-Share Program (7 U.S.C. 6523).

(lxv) Exemption of Certified Organic Products from Assessment (7 U.S.C. 7401).

(lxvi) Country of Origin Labeling (7 U.S.C. 1638-1638(d)).

(lxvii) Hass Avocado Promotion, Research, and Consumer Information Act of 2000 (7 U.S.C. 7801-7813).

(9) Furnish, on request, copies of programs, pamphlets, reports, or other publications for missions or programs as may otherwise be delegated or assigned to the Administrator, Agricultural Marketing Service and charge user fees therefore, as authorized by

section 1121 of the Agriculture and Food Act of 1981, as amended by section 1769 of the Food Security Act of 1985, 7 U.S.C. 2242a.

(10) Collect, summarize, and publish data on the production, distribution, and stocks of sugar.

(11) With respect to land and facilities under his or her authority, exercise the functions delegated to the Secretary by Executive Order 12580, 3 CFR, 1987 Comp., p. 193, under the following provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("the Act"), as amended:

(i) Sections 104 (a), (b), and (c)(4) of the Act (42 U.S.C. 9604 (a), (b), and (c)(4)), with respect to removal and remedial actions in the event of release or threatened release of a hazardous substance, pollutant, or contaminant into the environment;

(ii) Sections 104(e)-(h) of the Act (42 U.S.C. 9604(e)-(h)), with respect to information gathering and access requests and orders; compliance with Federal health and safety standards and wage and labor standards applicable to covered work; and emergency procurement powers;

(iii) Section 104(i)(11) of the Act (42 U.S.C. 9604(i)(11)), with respect to the reduction of exposure to significant risk to human health;

(iv) Section 104(j) of the Act (42 U.S.C. 9604(j)), with respect to the acquisition of real property and interests in real property required to conduct a remedial action;

(v) The first two sentences of section 105(d) of the Act (42 U.S.C. 9605(d)), with respect to petitions for preliminary assessment of a release or threatened release;

(vi) Section 105(f) of the Act (42 U.S.C. 9605(f)), with respect to consideration of the availability of qualified minority firms in awarding contracts, but excluding that portion of section 105(f) pertaining to the annual report to Congress;

(vii) Section 109 of the Act (42 U.S.C. 9609), with respect to the assessment of civil penalties for violations of section 122 of the Act (42 U.S.C. 9622), and the granting of awards to individuals providing information;

(viii) Section 111(f) of the Act (42 U.S.C. 9611(f)), with respect to the designation of officials who may obligate money in the Hazardous Substances Superfund;

(ix) Section 113(k) of the Act (42 U.S.C. 9613(k)), with respect to establishing an administrative record upon which to base the selection of a response action and identifying and notifying potentially responsible parties;

(x) Section 116(a) of the Act (42 U.S.C. 9616(a)), with respect to preliminary assessment and site inspection of facilities;

(xi) Sections 117(a) and (c) of the Act (42 U.S.C. 9617 (a) and (c)), with respect to public participation in the preparation of any plan for remedial action and explanation of variances from the final remedial action plan for any remedial action or enforcement action, including any settlement or consent decree entered into;

(xii) Section 119 of the Act (42 U.S.C. 9619), with respect to indemnifying response action contractors;

(xiii) Section 121 of the Act (42 U.S.C. 9621), with respect to cleanup standards; and

(xiv) Section 122 of the Act (42 U.S.C. 9622), with respect to settlements, but excluding section 122(b)(1) of the Act (42 U.S.C. 9622(b)(1)), related to mixed funding agreements.

(12) With respect to facilities and activities under his or her authority, to exercise the authority of the Secretary of Agriculture pursuant to section 1-102 related to compliance with applicable pollution control standards and section 1-601 of Executive Order 12088, 3 CFR, 1978 Comp., p. 243, to enter into an inter-agency agreement with the United States Environmental Protection Agency, or an administrative consent order or a consent judgment in an appropriate State, interstate, or local agency, containing a plan and schedule to achieve and maintain compliance with applicable pollution control standards established pursuant to the following:

(i) Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as further amended by the Hazardous and Solid Waste Amendments, and the Federal Facility Compliance Act (42 U.S.C. 6901 *et seq.*);

(ii) Federal Water Pollution Prevention and Control Act, as amended (33 U.S.C. 1251 *et seq.*);

(iii) Safe Drinking Water Act, as amended (42 U.S.C. 300f *et seq.*);

(iv) Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*);

(v) Noise Control Act of 1972, as amended (42 U.S.C. 4901 *et seq.*);

(vi) Toxic Substances Control Act, as amended (15 U.S.C. 2601 *et seq.*);

(vii) Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 *et seq.*); and

(viii) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 9601 *et seq.*).

(b) [Reserved]

[60 FR 56393, Nov. 8, 1995, as amended at 61 FR 25776, May 23, 1996; 62 FR 37485, July 14, 1997; 62 FR 40255, July 28, 1997; 68 FR 27446, May 20, 2003]

§ 2.80 Administrator, Animal and Plant Health Inspection Service.

(a) *Delegations.* Pursuant to § 2.22(a)(2) and (a)(6) through (a)(9), and subject to reservations in § 2.22(b)(2), the following delegations of authority are made by the Under Secretary for Marketing and Regulatory Programs to the Administrator, Animal and Plant Health Inspection Service: Exercise functions of the Secretary of Agriculture under the following authorities:

(1) Administer the Foreign Service personnel system for employees of the Animal and Plant Health Inspection Service in accordance with 22 U.S.C. 3922, except that this delegation does not include the authority to approve joint regulations issued by the Department of State relating to administration of the Foreign Service, nor an authority to represent the Department of Agriculture in interagency consultations and negotiations with the other foreign affairs agencies with respect to joint regulations.

(2) The Terminal Inspection Act, as amended (7 U.S.C. 166).

(3) The Honeybee Act, as amended (7 U.S.C. 281-286).

(4) Section 18 of the Federal Meat Inspection Act, as amended, as it pertains to the issuance of certificates of